

SENATE BILL 2175
By Kyle

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 7, relative to standardized treatment for sex offenders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-703, is amended by deleting the section in its entirety and substituting instead the following:

Section 39-13-703. As used in this part, unless the context otherwise requires:

(1) "Board" means the sex offender treatment board created in Section 39-13-704;

(2) "Sex offender" means any person who is convicted in the state, on or after January 1, 1996, of any sex offense, or if such person has been convicted in another state of an offense that would constitute a sex offense in this state, and who is subject to parole or probation supervision by the Tennessee department of correction pursuant to an interstate compact.

(3) "Sex offense" means any felony or misdemeanor offense described as follows:

(A) Rape of a child, as defined in Section 39-13-522;

(B) Aggravated rape, as defined in Section 39-13-502;

(C) Rape, as defined in Section 39-13-503;

(D) Aggravated sexual battery, as defined in Section 39-13-504;

(E) Sexual battery, as defined in Section 39-13-505;

(F) Statutory rape, as defined in Section 39-13-506;

(G) Incest, as defined in Section 39-15-302;

(H) Criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in this subsection; or

(I) Criminal responsibility for the facilitation of a felony when the specific felony facilitated is any of the offenses specified in this subsection; and

(4) "Treatment" means therapy and supervision of any sex offender which conforms to the standards created by the board pursuant to Section 39-13-704.

SECTION 2. Tennessee Code Annotated, Section 39-13-704(a), is amended by deleting the language "twelve (12) members" and substituting instead the language "thirteen (13) members".

SECTION 3. Tennessee Code Annotated, Section 39-13-704(a), is further amended by deleting subsections (9) and (10) and by adding the following new subdivisions:

(9) One (1) member appointed by the commissioner of correction who is representative of law enforcement;

(10) Two (2) members appointed by the commissioner of correction who are recognized experts in the field of sex abuse and who can represent sex abuse victims and victims' rights organizations; and

(11) One (1) member appointed by the presiding officer of the sex offender treatment board who is a representative of the board of paroles.

SECTION 4. Tennessee Code Annotated, Section 39-13-704(d), is amended in subdivisions (2) and (3) by deleting the language "sex offender surcharge fund" wherever it appears and by substituting instead the language "sex offender treatment fund".

SECTION 5. Tennessee Code Annotated, Section 39-13-705, is amended by deleting the section in its entirety and by substituting instead the following:

Section 39-13-705. (a) On or after January 1, 1996, each sex offender shall be required to submit to an evaluation for risk to victims or potential victims, identification, amenability to treatment, and behavior management under the procedures developed pursuant to Section 39-13-704(d)(1).

(b) Those offenders found guilty at trial or who pled guilty without an agreement as to length of sentence and/or probation and/or alternative sentencing that are to have a pre-sentence report prepared for submission to the court shall be required to submit to the evaluation referred to in subsection (a). Such evaluation shall be included as part of the pre-sentence report and shall be considered by the court in determining the sentencing issues herein stated. If the court grants probation or alternative sentencing, any plan of treatment recommended by such evaluation shall be a condition of the probation or alternative sentencing. Those offenders, that, as part of a negotiated settlement of their case, are to be placed on probation or alternative sentencing shall be required to submit to the evaluation referred to in subsection (a) as a condition of their probation or alternative sentencing and any plan of treatment recommended by such evaluation shall be a condition of probation or alternative sentencing.

(c) The evaluation and identification required by subsection (a) shall be at the expense of the offender evaluated based upon such person's ability to pay. The plan of treatment and behavior management shall be at the expense of the offender based upon such person's ability to pay.

SECTION 6. Tennessee Code Annotated, Section 39-13-709, is amended by deleting the section in its entirety and substituting instead the following:

Section 39-13-709. (a) For purposes of this section, unless the context otherwise requires, "convicted" and "conviction" means an adjudication of guilt of a sex offense as defined in this part as hereinbelow described:

(1) Plea of guilty, including a plea of guilty entered pursuant to Section 40-35-313;

(2) Verdict of guilty by a judge or jury;

(3) Plea of no contest; and

(4) Best interest plea.

(b) For purposes of this section, unless the context otherwise requires, one who enters into a Memorandum of Understanding pursuant to Section 40-15-101 et seq. as to any sex offense as defined in this part shall also be responsible for the taxes hereinbelow specified.

(c) On and after July 1, 1996, each person who is convicted of a sex offense as defined in this part, or who enters a Memorandum of Understanding as to a sex offense as defined by this part, shall pay a tax to the clerk of the court in which the conviction occurs in an amount not to exceed three thousand dollars (\$3,000) as determined by the court for each conviction as defined by this part and each Memorandum of Understanding as to a sex offense as defined by this part.

(d) The clerk of the court shall allocate the tax required by subsection (c) of this section as follows:

(1) Five percent (5%) of the tax paid shall be retained by the clerk for administrative costs incurred pursuant to this subsection.

(2) Ninety-five percent (95%) of the tax paid shall be transferred to the state treasurer who shall credit the same to the sex offender treatment fund created pursuant to subsection (e) of this section.

(e) There is hereby created in the state treasury a sex offender treatment fund which shall consist of moneys received by the state treasurer, pursuant to this part. All interest derived from the deposit and investment of this fund shall be credited to the general fund. Any moneys not appropriated by the general assembly shall remain in the sex offender treatment fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. All monies in the fund shall be subject to annual appropriation by the general assembly to the judicial branch, the department of

correction, and the department of human services after consideration of the plan developed pursuant to Section 39-13-704(d)(3) to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders.

(f) The court may waive all or any portion of the tax required by this section if the court finds that a person convicted of a sex offense is indigent or financially unable to pay.

(g) For the purposes of collecting any unpaid balance of the tax imposed by this part, the Tennessee department of correction shall deduct from the trust fund account of any sex offender who is in custody of the department of correction those monies necessary to satisfy the unpaid tax.

SECTION 7 . If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. For the purpose of making the required board appointments, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 1996, the public welfare requiring it.

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